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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,871	01/28/2000	Christopher Evans	11714-P02	2773

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EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/13/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/493,871

Applicant(s)  
Christopher Evans & Richar Evans

Examiner  
Mitra Aryanpour

Art Unit  
3711



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Jun 11, 2001

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-6 is/are pending in the applica

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-6 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirem

## Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

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## **DETAILED ACTION**

### ***Oath/Declaration***

1. This application has joint inventors, as a result the Language of the Declaration and Oath should reflect as such. For example "I hereby . . ." should be "We hereby . . .". Correction is requested on pages 1 through 3 of the Declaration and Oath.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title of this application is "Apparatus and method for soccer training and practice", however applicant is not claiming a method of playing or training. "and method" should be taken out.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sowards (4,720,095) in view of Ainscough et al (5,957,789) and Schachner (3,804,409).

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Sowards shows an apparatus for holding a soccer ball (110), comprising: a tie down stake (112) having a spiraled lower portion (114); a circular-shaped upper portion (118); a handle under the circular-shaped upper portion (120) which is projecting from the tie-down stake (112); a ring (128) on the circular-shaped (118) upper portion, wherein the ring (128) is able to travel along a substantial portion of the circular-shaped (118) upper portion. The ball (110) is attached directly to the ring (128). Figure 10.

Sowards lacks an elastic tether being attached to the tie down stake (112); a detachable link and a swivel-eye bolt.

Ainscough et al shows a soccer training device, having a ball (12), a tether (16), a detachable link (20) and a swivel-eye bolt (26) attached to an upright (46), (column 2, lines 51-64 and column 3, lines 30-41), wherein the upright (46) is shown to be secured to the ground (59) in several different ways. Figures 1, 4, 5.

Schachner shows an apparatus for football kicking practice comprising an elastic cord (16) and a non-elastic cord (18) secured at one end to the ball (10) and at the other end to a stake (14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an elongated tether either elastic or inelastic or a combination of the two, for the apparatus of Sowards in order to accommodate various end users, and to also allow the ball to not only rotate freely 360 degrees, but to prevent the cord from winding upon itself as it is taught by Schachner and Ainscough et al respectively.

Regarding claims 5 and 6, see the explanation for claims 1-4 above.

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***Response to Arguments***

5. Applicant's arguments filed 6/11/2001 have been fully considered but they are not persuasive.

Regarding Applicant's assertion that the references teaching away from any type of modification. Ainscough et al's reference has been used to demonstrate means of securing a ball to a support structure. Ainscough et al's reference was not used because of its support pole. As for the tether being "substantially inelastic", it is further old and well known to use a tether that is best suited for the ability of the player and the end result expected upon impacting the ball. As demonstrated by Ring ('364), a strong player may desire a low degree of elasticity in a tether, whereas a weak player or a young player might need a highly elastic tether in order to make up for the decreased impact on the ball. Sowards' structure except for not having an elongated elastic tether, meets the recited claimed limitation. Tethered balls are well known in the sports art. To secure the tether to the ground using a spiraled lower portion, an anchor pin (stake), or a weighted base with/without a support pole is also well known in the art. Applicant has pointed out the disadvantages taught in Sowards Background and Summary of the Invention section for using an elongated elastic tethered line. These disadvantages are merely stating the consequences of using a tethered line and the expected results, however, it does not in any way mean that elastic tether lines can not or should not be used. Furthermore, by combining the teachings of prior art references to demonstrate that the use of tethered lines whether elastic, semi-elastic or non-elastic in combination with different types of stakes is well known, and it does not in anyway destroy the prior art teachings. The above disadvantages are duly noted, however, as demonstrated in many of the prior art

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references, the length of tether is adjustable to meet the users need, and there is always a possibility of tripping over a stationary training device, regardless of the length of the tether. Regarding the fixed and slow return time, again the length and type of tether as mentioned above can be adjusted to suit the need of the user.

How (the intended use) a tethered ball is impacted, whether by using a hitting implement or by simply using the hand or foot of a user/player does not differentiate the claimed apparatus from the prior art apparatus, if the prior art structure is capable of performing the intended use, then it meets the claim.

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is (703) 308-3550. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached at (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700

MA

December 10, 2001